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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/577,237	02/22/2007	Jyunichi Samo	0666.2870000/TGD/JHH	4121
26111 7590 06/24/2008 STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C. 1100 NEW YORK AVENUE, N.W. WASHINGTON, DC 20005				
EXAMINER COLEMAN, KEITH A				
ART UNIT		PAPER NUMBER		
3747				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/577,237

Applicant(s)

SAMO ET AL.

Examiner

KEITH COLEMAN

Art Unit

3747

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 February 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-5 are rejected under 35 U.S.C. 102(b) as being anticipated by Skinner (US Patent No. 4,355,609).

With regards to claim 1, the patent to Skinner et al. discloses a first lever (16, Col. 2, Line 24) **interlockingly connected** to a rotary speed setting lever (14, See Figure 1); a second lever (12, Col. 2, Line 12) pivotally supported by the first lever (16) and a third lever (11, Col. 2, Line 11, See Figure 1) pivotally supported by the second lever (12), its rotation amount **regulated** by the second lever (12) and interlocked with **a** governor weight (14), characterized in that an elastic member (24, Col. 2, Lines 35-40) is provided between the first lever (16) and the second lever (12) so as to **bias** the levers for decreasing **a** rotary speed **of an engine** for a fixed amount **a** time of low speed rotation, and a set load changing means for the elastic member (24) is **attached to** the first lever (16) near the elastic member (24). Using broadest reasonable interpretation, 'interlock' is defined as to fit (parts) together to ensure coordinated action. Thus, all parts are interlocked in Figure 1.

With regards to claim 2, the patent to Skinner discloses wherein a bracket (i.e. rubber bellows housing the magnets 23, 22, Col. 2, Lines 35-40) for the elastic member (24) at the side of the first lever (16, See Figure 1) is constructed by an elastic plate (i.e. rubber bellows), the bracket (24) touches an outer peripheral surface of an adjusting shaft (magnets 22, 23, See Figure 1, appears to project from the levers 16 and 12 as a shaft), and a distance between the outer peripheral surface of the adjusting shaft (22, 23) and an axis is changed by stages (via rubber bellow, See Figure 1, Col. 1, Lines 10-25), and wherein the bracket for the elastic member (24) at the side of the first lever (16) is constructed by an elastic plate (i.e. rubber bellow or plates). Using broadest reasonable interpretation, the bellows are interpreted as rubber or elastic plates and since a shaft is defined as a column or any tubular or pillar-like supporting structure, the magnets shown in Figure 1 are interpreted as an adjusting shaft. As to the stages, Skinner discloses that the apparatus is necessary for adjusting fuel operations or stages for normal, idling, and start-up engine speeds.

With regards to claim 3, the patent to Skinner further discloses wherein a rotation limiting member (16) is projected from one of ends of the adjusting shaft (22, 23), and a projection (19, Col. 2, Line 29) which can touch the rotation limiting member (near 19, the end of member 16, See Figure 1) is provided on a plate (the housing, See Figure 1) supporting the adjusting shaft (22, 23, See Figure 1). As shown in Figure 1, the first lever (16) is also interpreted as being a rotation-limiting member.

With regards to claim 4, the patent to Skinner discloses wherein an engaging part (20, Col. 2, Line 33) for an adjusting operation means is formed on one of sides of the adjusting shaft (22, 23, See Figure 1).

With regards to claim 5, the patent to Skinner discloses wherein the elastic member (24) and the adjusting shaft (22, 23) are provided oppositely to a pivotal support part (13, Col. 2, Line 13) of the first lever (16) and the second lever (12, See Figure 1).

3. Claims 1, 6, and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Sakaguchi et al. (US Patent Publication 2004/0163622).

With regards to claim 1, the patent to Sakaguchi et al. discloses a first lever (See Figure 3) interlockingly connected to a rotary speed setting lever (See Figure 3); a second lever (See Figure 3) pivotally supported by the first lever and a third lever (See Figure 3) pivotally supported by the second lever, its rotation amount regulated by the second lever and interlocked with a governor weight (24), characterized in that an elastic member (37, See Figure 5) is provided between the first lever and the second lever so as to bias the levers for decreasing a rotary speed of an engine for a fixed amount a time of low speed rotation, and a set load changing means for the elastic member (37) is attached to the first lever near the elastic member (37). Using

broadest reasonable interpretation, 'interlock' is defined as to fit (parts) together to ensure coordinated action. Thus, all parts are interlocked in Figures 3 and 5.

With regards to claim 6, the patent to Sakaguchi et al. discloses wherein the governor weight acts directly on the third lever (See Figure 3).

With regards to claim 7, the patent to Skinner discloses wherein the governor device is enclosed in a crankcase comprising an opening that allows adjustment of the set load changing means (See Figures 1 and 4).

Response to Arguments

Applicant's arguments with respect to claims 1-7 have been considered but are moot in view of the new ground(s) of rejection.

Applicant's Arguments

Claim 1, as amended herein, recites a governor device wherein "a set load changing means for the elastic member is attached to the first lever near the elastic member." The Skinner patent fails to disclose or suggest the claimed invention.

Since, there is no disclosure or suggestion in the Skinner patent that stop 19 or any other element of the Skinner patent is "a set load changing means for the elastic

member is attached to the first lever near the elastic member." Accordingly, the Skinner patent fails to disclose or suggest the claimed invention.

Also, Applicant added claims 6 and 7.

Examiner's Response to Arguments

As shown in Figure 1, Skinner discloses "a set load changing means for the elastic member is attached to the first lever near the elastic member." As to new claims 6 and 7, the patent to Sakaguchi et al. discloses the new limitations as explained above.

As to Applicant's remark that "Since, there is no disclosure or suggestion in the Skinner patent that stop 19 or any other element of the Skinner patent is "a set load changing means for the elastic member is attached to the first lever near the elastic member." Accordingly, the Skinner patent fails to disclose or suggest the claimed invention." Applicant is reminded to See MPEP 2125. Drawings and pictures can anticipate claims if they clearly show the structure which is claimed. In re Mraz, 455 F.2d 1069, 173 USPQ 25 (CCPA 1972). However, the picture must show all the claimed structural features and how they are put together. Jockmus v. Leviton, 28 F.2d 812 (2d Cir. 1928).

This action is made final.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **KEITH COLEMAN** whose telephone number is (571)270-3516. The examiner can normally be reached on 5:30-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stephen Cronin can be reached on (571)272-4536. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3747

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

KAC

/K. C./

Examiner, Art Unit 3747

/Stephen K. Cronin/

Supervisory Patent Examiner, Art Unit 3747